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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,860	09/29/2000	MARTIN M. BARRERA	NOVE10001000	9366

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LAW OFFICE OF DELIO & PETERSON, LLC.
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EXAMINER

KIM, CHRISTOPHER S

ART UNIT	PAPER NUMBER
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3752

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/675,860

Applicant(s)

BARRERA ET AL.

Examiner

Christopher S. Kim

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-10, 12-17, 19-21 and 26-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10, 12-17, 19-21 and 26-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The response filed on December 19, 2006 is acknowledged.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. Claim 31 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 31 recites, "...while not requiring the use of capillary tubes to create a pressure differential..." The disclosure, as originally filed, does not appear to disclose the negative limitation.

4. Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 31 recites, "...while not requiring the use of capillary tubes to create a pressure differential..." It is uncertain whether the recitation (1) requires the apparatus itself to create a pressure differential without using capillary tube, (2) the apparatus

does not require a capillary tubes (tubes which create a pressure differential), or (3) the apparatus can have capillary tubes as long as they do not create a pressure differential. If the apparatus is required to create a pressure differential, the metes and bounds of the negative limitation cannot be determined. It is uncertain what physical elements are being claimed to create the pressure differential. Additionally, the "pressure differential" appears to be a double inclusion of the "first pressure," "second pressure," "exit pressure," etc.

Claim Rejections - 35 USC § 103

5. Claims 1-5, 7-10, 12-17, 19-21, 26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gwyn (4,397,422) in view of Holt (5501,397).

Gwyn discloses an apparatus comprising: an inlet 17; a throat region 19; a first aperture 20 (aperture 20 for the white colorant); a second aperture 20 (aperture 20 for the green colorant); a third aperture 20 (for the red colorant); an exit nozzle 15.

Gwyn does not disclose a chemical vapor deposition chamber where the apparatus is in fluid communication with the chamber.

Holt discloses chamber (spray booth No. 1, No. 2 and No. 3 in figures 1 and 5) having a spray gun 88 attached to the spray booth at ceiling 94 and in communication with the chamber. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided a chamber to the device of Gwyn as taught by Holt to reduce dust contamination (Farnan, 5,456,023, column 3, lines 25-35).

The paint sprayed, as in the spray booth of Holt, is a chemical in vapor fluid form and is deposited on the painted surface. Therefore, the chamber literally meets the definition of "chemical vapor deposition chamber."

In claim 13, the exit nozzle is considered to be the portion of throat region 19 downstream of aperture 20.

Claims 1, 13 and 28 recite "adapted to" which merely requires the ability to so perform.

Claims 1, 13 and 28 recite "configured to" which merely requires the ability to so perform.

Claims 1, 13 and 28 recite "for" which merely recites the manner in which a claimed apparatus is intended to be employed and does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

Claim 5 further defines the first and second chemical vapor deposition dopants comprising TEOS. In claim 1, the first and second chemical vapor deposition dopants are not positively recited. The dopants are merely recited as intended use of the first and second aperture of the throat region of the apparatus being claimed.

With respect to claims 2 and 14, Gwyn in view of Holt discloses the limitations of the claimed invention with the exception of the angle being forty to sixty degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided an angle of forty to sixty degrees for optimization dependent of application criteria, since it has been held that where the general

conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

With respect to claim 12, Gwyn in view of Holt discloses the limitations of the claimed invention with the exception of the angle being twenty to forty degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided an angle of twenty to forty degrees for optimization dependent of application criteria, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Response to Arguments

6. Applicant's arguments filed December 19, 2006 have been fully considered but they are not persuasive.

Applicant argument regarding non-analogous art has been addressed in the prior Office action. Additionally, applicant argues the specification rather than the claims.

Regarding applicant's argument directed to the recitation of a semiconductor substrate, the recitation "for processing a semiconductor substrate" recites mere intended use. A recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

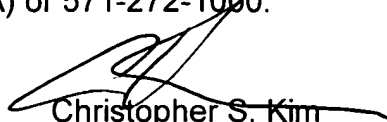
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christopher S. Kim
Primary Examiner
Art Unit 3752

CK